



The Tamil Nadu Electricity Duty Act, 1939

Act 5 of 1939

Keyword(s):

Levy of Duty, Energy, Sale and Consumption of Electrical Energy

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THE TAMIL NADU ELECTRICITY DUTY
ACT, 1939.

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¹[TAMIL NADU] ACT No. V OF 1939.²[THE ¹(TAMIL NADU) ELECTRICITY DUTY ACT, 1939.]

(Received the assent of the Governor on the 20th March 1939 ; first published in the Fort St. George Gazette on the 21st March 1939.)

An Act for the levy of a duty ³(on certain sales and consumption of electrical energy by licensees) in the ⁴[State of Tamil Nadu].

WHEREAS it is expedient to levy a duty ³(on certain sales and consumption of electrical energy by licensees) in the ⁴[State of Tamil Nadu] ; It is hereby enacted as follows :—

1. (1) This Act may be called the ¹[Tamil Nadu] Electricity Duty Act, 1939.

Short title,
extent and
commence-
ment.

Co
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of

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

² For Statement of Objects and Reasons, see Fort St. George Gazette, dated the 7th February 1939—Part IV, page 40.

The Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Tamil Nadu Merged States (Laws) Act, 1949 (Tamil Nadu Act XXXV of 1949).

So much of this Act as was in force on the date of the commencement of the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960) in the State of Madras except in the transferred territory was extended to that territory repealing the corresponding law in that territory by section 3 of, and the First Schedule to, the latter Act. However, all duties levied or collected or purporting to have been levied or collected under the Travancore-Cochin Electricity Duty Act, 1950 (Travancore-Cochin Act IV of 1950) and the rules made thereunder during the period from the 1st November 1956 to the 31st March 1961 were validated by the Tamil Nadu Electricity Duty (Validation) Act, 1970 (Tamil Nadu Act 24 of 1970.)

³ These words were substituted for the words "on certain sales of electrical energy effected by licensees" by section 2 of the Madras Electricity Duty (Amendment) Act, 1945 (Madras Act VIII of 1945), re-enacted permanently by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting and Repealing (No. I) Act, 1948 (Tamil Nadu Act VII of 1948).

⁴ This expression was substituted for the expression "Province of Madras" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

(2) It extends to the whole of the ¹(State of Tamil Nadu).

(3) It shall come into force on such ²date as the ³(State) Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless there is anything repugnant in the subject or context—

Definitions.

(a) 'energy' means electrical energy ;

(b) 'licensee' means any person including a company or a local authority licensed under Part II of the Indian Electricity Act, 1910, to supply energy, or any person including a company or a local authority who has obtained the sanction of the ³(State) Government under section 28 of that Act to supply energy ; and

(c) 'prescribed' means prescribed by rules made under this Act.

3. (1) Save as otherwise provided in sub-section (2), every licensee in the ¹[State of Tamil Nadu] shall pay every month to the ³(State) Government in the prescribed manner, a duty calculated at the rate of ⁴[five paise] per unit of energy, on and in respect

Levy of a duty on certain sales of electrical energy.

¹ This expression was substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

² Came into force on the 1st April 1939.

³ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

⁴ The words "three naye paise" were substituted for the words "six pies" by section 2 of, and the Schedule to, the Tamil Nadu Coinage (Alteration of References) Act, 1960 (Tamil Nadu Act 9 of 1960). The words "three paise" were substituted for the words "three naye paise" by section 2(i) (a) of the Tamil Nadu Electricity Duty (Amendment) Act, 1964 (Tamil Nadu Act 34 of 1964). The words "five paise" were again substituted for the words "three paise" by section 2 of the Tamil Nadu Electricity Duty (Amendment) Act, 1966 (Tamil Nadu Act 9 of 1966).

of all sales of energy, ¹(except sales to the Government of India for consumption by that Government or sales to the Government of India or a railway company operating any railway for consumption in the construction, maintenance or operation of the railway) effected by the licensee during the previous month, at a price of more than ²[twenty paise] per unit ³[and on and in respect of energy which was consumed by the licensee during the previous month for purposes other than those connected with the construction, maintenance and operation of his electrical undertaking and which, if sold to a private consumer under like conditions, would have fetched a price of more than ²(twenty paise) per unit].

⁴[(2) A licensee shall be exempt from duty under sub-section (1) in any month if in the previous month the total sales of energy effected by him at

¹ These words were substituted by the Adaptation (Amendment) Order of 1950 for the words and brackets "(except sales to the Central Government for consumption by that Government or to the Federal Railway Authority or a railway company operating a Federal Railway for consumption in the construction, maintenance or operation of a Federal Railway)" which were inserted by section 2 and deemed to have formed part of the main Act from its commencement by section 3 of the Madras Electricity Duty (Amendment) Act, 1941 (Madras Act III of 1941) re-enacted permanently with specified modifications by section 3 of, and the Second Schedule to, the Tamil Nadu Re-enacting and Repealing (No. 1) Act, 1948 (Tamil Nadu Act VII of 1948).

² The words " twelve naye paise " were substituted for the words " two annas " by section 2 of, and the Schedule to, the Tamil Nadu Coinage (Alteration of References) Act, 1960 (Tamil Nadu Act 9 of 1960). The words " fifteen paise " were substituted for the words " twelve naye paise " by section 2 (i) (b) of the Tamil Nadu Electricity Duty (Amendment) Act, 1964 (Tamil Nadu Act 34 of 1964). The words " eighteen paise " were again substituted for the words " fifteen paise " by section 2(1) of the Tamil Nadu Electricity Duty (Amendment) Act, 1970 (Tamil Nadu Act 10 of 1970), which was deemed to have come into force on the 1st November 1969. The words " twenty paise " were substituted for the words " eighteen paise " by section 2(1) of the Tamil Nadu Electricity Duty (Amendment) Act, 1975 (Tamil Nadu Act 16 of 1975), which was deemed to have come into force on the 5th November 1972.

³ These words were added by section 3 (i) of the Madras Electricity Duty (Amendment) Act, 1945 (Madras Act VIII of 1945) re-enacted permanently by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting and Repealing (No. 1) Act, 1948 (Tamil Nadu Act VII of 1948).

⁴ This sub-section was substituted for original sub-section (2) by section 3 (ii), *ibid.*

whatever price together with the energy consumed by him for purposes other than those connected with the construction, maintenance and operation of his electrical undertaking, did not exceed 16,666 units:

Provided that if at the end of any financial year, it is found that in such year the total sales of energy effected by the licensee at whatever price together with the energy consumed by him for purposes other than those connected with the construction, maintenance and operation of his electrical undertaking, were not less than 200,000 units, the licensee shall pay the duty in respect of any month or months comprised in such year in which the total of the sales and of the consumption as aforesaid did not exceed 16,666 units.]

(3) Where a licensee holds more than one licence, duty shall be calculated and levied under this section separately in respect of each licence.

¹[(4) Where a licensee who is liable to pay duty under this section sells energy to the ²(Government of India for consumption by that Government or to a railway company operating any railway for consumption in the construction, maintenance or operation of that railway), the price charged on such sales shall be less by the amount of the duty than the price

¹ This sub-section and Explanation were added by section 2 of the Madras Electricity Duty (Amendment) Act, 1943 (Madras Act II of 1943) re-enacted permanently with specified modifications by section 3 of, and the Second Schedule to, the Tamil Nadu Re-enacting and Repealing (No. I) Act, 1948 (Tamil Nadu Act VII of 1948). This amendment shall be deemed to have formed part of the principal Act from its commencement.

² These words were substituted for the words "Central Government for consumption by that Government or to the Federal Railway Authority or a railway company operating a Federal Railway for consumption in the construction, maintenance or operation of a Federal Railway" by the Adaptation (Amendment) Order, 1950.

charged to other consumers of a substantial quantity of energy, provided the price last mentioned is more than ¹(twenty paise) per unit.

In this sub-section, the expression 'price charged to other consumers' shall include the duty, if any, recoverable from the consumer under sub-section (1) of section 7.

²(Explanation.—The expression "railway" in this section and in section 9 shall have the meaning assigned to it in clause (20) of article 366 of the Constitution)].

Obligation of licensees to keep books of account and to submit returns.

4. Every licensee shall—

(a) keep books of account in the prescribed form ; and

(b) submit returns showing the units of energy supplied and the amount of the duty payable in respect thereof, to such officer, in such form, and at such times as may be prescribed.

Inspecting Officers.

5. (1) The ³(State) Government may, by notification in the Official Gazette, appoint Inspecting Officers to inspect the books of account required to be kept by licensees under clause (a) of section 4.

¹ The words "twelve naye paise" were substituted for the words "two annas" by section 2 of, and the Schedule to, the Tamil Nadu Coinage (Alteration of References) Act, 1960 (Tamil Nadu Act 9 of 1960). The words "fifteen paise" were substituted for the words "twelve naye paise" by section 2 (ii) of the Tamil Nadu Electricity Duty (Amendment) Act, 1964 (Tamil Nadu Act 34 of 1964). The words "eighteen paise" were again substituted for the words "fifteen paise" by section 2 (2) of the Tamil Nadu Electricity Duty (Amendment) Act, 1970 (Tamil Nadu Act 10 of 1970), which was deemed to have come into force on the 1st November 1969. The words "twenty paise" were substituted for the words "eighteen paise" by section 2(2) of the Tamil Nadu Electricity Duty (Amendment) Act, 1975 (Tamil Nadu Act 16 of 1975), which was deemed to have come into force on the 5th November 1972.

² This explanation was substituted for the original explanation by the Adaptation (Amendment) Order of 1950.

³ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

(2) Officers so appointed shall perform such duties and exercise such powers as may be prescribed, for the purpose of carrying into effect the provisions of this Act and the rules made thereunder.

Central
Act XLV
of 1860.

(3) Every such officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

¹[6. Any duty due under this Act which remains unpaid— Recovery
duty

(a) shall be deemed to be in arrears, and thereupon interest at the rate of twelve *per centum per annum* shall be payable on such duty; and

(b) shall, together with any interest payable under clause (a), be recoverable either as an arrear of land revenue or by deduction from any amount payable by the State Government to the licensee.]

7. (1) Any licensee may, with the previous sanction of the ²(State) Government and subject to such conditions as they may impose, recover from any person or class of persons to whom energy is sold at a price of more than ³[twenty paise] per unit, the duty which falls to be paid by the licensee in respect of the energy so sold or any part of it, as may be determined by the ⁴(State) Government.

Licensee to
reimburse
himself from
consumer
in certain
cases.

¹ This section was substituted for the original section 6 by section 3 of the Tamil Nadu Electricity Duty (Amendment) Act, 1964 (Tamil Nadu Act 34 of 1964).

² This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

³ The words "twelve naye paise" were substituted for the words "two annas" by section 2 of, and the Schedule to, the Tamil Nadu Coinage (Alteration of References) Act, 1960 (Tamil Nadu Act 9 of 1960). The words "fifteen paise" were substituted for the words "twelve naye paise" by section 3 of the Tamil Nadu Electricity Duty (Amendment) Act, 1964 (Tamil Nadu Act 34 of 1964). The words "eighteen paise" were again substituted for the words "fifteen paise", by section 3 of the Tamil Nadu Electricity Duty (Amendment) Act, 1970 (Tamil Nadu Act 10 of 1970), which was deemed to have come into force on the 1st November 1969. The words "twenty paise" were substituted for the words "eighteen paise" by section 3 of the Tamil Nadu Electricity Duty (Amendment) Act, 1975 (Tamil Nadu Act 16 of 1975), which was deemed to have come into force on the 5th November 1972.

Explanation.—¹[Save as provided in sub-section (4) of section 3, the duty] recoverable from any person under this sub-section shall not be deemed to be part of the price charged for the energy by the licensee.

(2) The licensee may, for the purpose of sub-section (1), exercise the power conferred on a licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910, for the recovery of any charge or sum due in respect of energy supplied by him.

Central
Act X
of 1910.

8. If any licensee—

Penalties.

(a) fails to keep books of account or to submit returns as required by section 4, or

(b) intentionally obstructs an Inspecting Officer appointed under section 5 in the performance of his duties or the exercise of his powers under this Act and the rules made thereunder he shall be punished with fine which may extend to fifty rupees.

9. (1) The ²(State) Government may make rules to carry out the purposes of this Act.

Power to
make
rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the time and manner of payment of duty under section 3 ;

¹ These words were substituted for the words "The duty" by section 3 of the Madras Electricity Duty (Amendment) Act, 1943 (Madras Act II of 1943), re-enacted permanently with specified modifications by section 3 of, and the Second Schedule to, the Tamil Nadu Re-enacting and Repealing (No. I) Act, 1948 (Tamil Nadu Act VII of 1948). This amendment should be deemed to have formed part of the principal Act from its commencement.

² This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

¹[(b) ²(refunds to the Government of India and railway companies operating railways), when the price paid by them is found to exceed the limit specified in sub-section (4) of section 3];

¹[(c)] the form of the books of account required to be kept under clause (a) of section 4;

¹[(d)] the times at which, the forms in which, and the officers to whom, the returns required by clause (b) of section 4 should be submitted;

¹[(e)] the duties and powers of Inspecting Officers appointed under section 5; and

¹[(f)] any other matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the ³(State) Government, necessary for giving effect to the purposes of this Act.

(3) In making a rule under sub-section (1) or sub-section (2), the ³(State) Government may provide that a breach thereof shall be punishable with fine not exceeding fifty rupees.

⁴[(4) All rules made under this Act shall be published in the *Fort St. George Gazette* and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

¹ Clauses (b) to (e) were relettered as clauses (c) to (f) respectively and clause (b) was inserted by section 4 of the Madras Electricity Duty (Amendment) Act, 1943 (Madras Act II of 1943), re-enacted permanently with specified modifications by section 3 of, and the Second Schedule to, the Tamil Nadu Re-enacting and Repealing (No. I) Act, 1948 (Tamil Nadu Act VII of 1948). This amendment should be deemed to have formed part of the principal Act from its commencement.

² These words were substituted for the words "refunds to the Central Government, the Federal Railway Authority and railway companies operating Federal Railways" by the Adaptation (Amendment) Order of 1950.

³ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

⁴ These sub-sections were substituted for the original sub-section (4) by section 4 of the Tamil Nadu Electricity Duty (Amendment) Act, 1964 (Tamil Nadu Act 34 of 1964).

(5) Every rule made under the Act shall, as soon as possible after it is made, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so without prejudice to the validity of anything previously done under that rule.]

Saving.

¹[10. This Act shall have effect subject to the provisions of article 288 of the Constitution.]

¹ This section was added by the Adaptation (Amendment) Order of 1950